

## REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

New claim 18 has been added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-6, 8-12, and 16-18 are now pending in this application.

### **Rejection under 35 U.S.C. § 102**

Claims 1, 12, 16, and 17 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,962,739 to Kim *et al.* (hereafter “Kim”). This rejection is respectfully traversed.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil. Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See generally MPEP § 2131.

### **Claims 1 and 12**

Kim discloses a fabric that includes a layer with an array of plates. See Kim at col. 2, lines 35-38; col. 7, lines 16-19, 55-61. Kim teaches that the plates provide penetration resistance. See Kim at col. 7, lines 24-25, 32-35, 55-61. Kim further discloses an embodiment of a fabric that includes metal guard plates reinforced with a wire mesh. See Kim at col. 22, line 54, to col. 23, line 3.

However, Kim does not disclose a stab-resistant insert for protective textile, said insert comprising at least one metal layer of a woven fabric with metal cords or metal wires, and at least one textile layer, said metal cords or metal wires being the only stab-resistant elements, said textile layer being in contact with and being connected to said metal layer by an adhesive, wherein said textile layer comprises a non-woven material, wherein the insert is formed without plate-like elements, as recited in claim 1. Claim 12 depends from claim 1.

Applicant respectfully submits that the disclosure of Applicant's application provides support for the amendments to claim 1. For example, at least page 7, lines 1-26, and Figures 2 and 3 of Applicant's application provide support for the amendment to claim 1. As discussed on page 7, lines 1-26, of Applicant's specification, Figures 2 and 3 show inserts having various layers and components. However, as shown in Figures 2 and 3, these inserts do not include any plate-like elements.

Kim does not disclose a stab-resistant insert for protective textile that is formed without plate-like elements because the fabric of Kim includes plates. In addition, Kim does not disclose that the wire mesh 52 is woven. Therefore, Kim does not anticipate claims 1 and 12.

The Office argues on pages 2 and 4 of the Office Action that each of the various materials of Kim would be inherently resistant to stabbing, slicing, penetration, etc. Applicant does not agree that all materials and layers of Kim would be stab-resistant elements because one of ordinary skill in the art would understand that "stab-resistant" regards materials having a resistance to stabbing that is enhanced in comparison to other materials that are not normally considered to be "stab-resistant." In any event, the presence of additional stab-resistant structure in Kim would make Kim even further removed from the present claimed invention.

#### Claim 16

Claim 16 recites a stab-resistant insert for protective textile, said insert consisting essentially of at least one metal layer of a woven fabric with metal cords or metal wires; and

at least one textile layer; said textile layer being in contact with and being connected to said metal layer by an adhesive; wherein said textile layer comprises a non-woven material.

As noted in MPEP § 2111.03, the transition phrase “consisting essentially of” limits the scope of a claim to the specified materials or steps and those that do not materially alter the basic and novel characteristics of the claimed invention.

As discussed above in regard to claims 1 and 12, Kim discloses a fabric that includes a plate in addition to a wire mesh and a connecting material. The Office argues on page 4 of the Office Action that Applicant has not provided any evidence that additional layers of material would materially affect the basic and novel characteristics of the claimed invention. However, Kim discloses that the guard plates of Kim’s fabric are made from materials selected for resistance to penetration, grip enhancement, and abrasion resistance. See Kim at col. 7, lines 55-61. Therefore, Kim provides evidence that the addition of guard plates would at least provide increased resistance to penetration. The addition of such plates to the insert of claim 16 would materially alter the basic and novel characteristics of the claimed insert because such plates would substantially increase the penetration resistance of the claimed insert. In addition, Kim does not disclose that the wire mesh 52 is woven.

For at least the reasons discussed above, Kim does not anticipate claim 16 because Kim discloses additional features that would alter the basic and novel characteristics of the insert of claim 16.

#### Claim 17

Claim 17 recites a stab-resistant insert for protective textile, said insert consisting of: at least one metal layer of a woven fabric with metal cords or metal wires; and at least one textile layer; said textile layer being in contact with and being connected to said metal layer by an adhesive; wherein said textile layer comprises a non-woven material.

The Office argues on page 4 of the Office Action that the language “at least” in claim 17 “implies that the apparatus may include other components.” Applicant respectfully disagrees. Claim 17 uses the transition phrase “consisting of” and subsequently recites “at

least one layer of a woven fabric with metal cords or metal wires” and “at least one textile layer.” Such language recites one layer of a woven fabric, or a plurality of layers of a woven fabric, and one textile layer, or a plurality of textile layers. In other words, the language of claim 17 permits one or more layers of each type of layer recited in claim 17, not the inclusion of features besides these types of layers. The plates of Kim are not a layer of woven fabric or a textile layer and are not encompassed by the language of claim 17. In addition, Kim does not disclose that the wire mesh 52 is woven.

The interpretation argued by the Office on page 4 of the Office Action is not a proper interpretation of claim language that uses “consisting of” as a transition phrase and is not a proper interpretation of the language “at least one.”

For at least the reasons discussed above, Kim does not anticipate claims 1, 12, 16, and 17 because Kim does not disclose all of the features of claims 1, 16, and 17. Reconsideration and withdrawal of this rejection is respectfully requested.

#### **Rejections under 35 U.S.C. § 103**

##### **Claims 2 and 6**

Claims 2 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kim in view of U.S. Patent No. 6,581,212 (hereafter “Andresen”). This rejection is respectfully traversed. Andresen fails to remedy the deficiencies of Kim discussed above in regard to independent claim 1, from which claims 2 and 6 depend.

Furthermore, it would not have been obvious to one of ordinary skill to modify the fabric of Kim to remove the plates so that only a knit or woven material is provided because Kim teaches against such a modification. For example, Kim teaches that knit or woven constructions provide minimal protection against blade cutting, such as by knives, provide even less protection against abrasive or serrated instruments, and virtually no protection against puncture or piercing. See Kim at col. 1, line 66, to col. 2, line 5. Nor would it have been obvious to one of ordinary skill in the art to look to references regarding fabrics without plates because Kim teaches against the use of such fabrics.

For at least the reasons discussed above, reconsideration and withdrawal of this rejection is respectfully requested.

Claims 3-5

Claims 3-5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kim and Andresen, and further in view of U.S. Patent No. 6,562,435 to Brillhart, III *et al.* (hereafter “Brillhart, III”). This rejection is respectfully traversed. Brillhart, III fails to remedy the deficiencies of Kim and Andresen discussed above in regard to independent claim 1, from which claims 3-5 depend. Reconsideration and withdrawal of this rejection is respectfully requested.

Claim 8

Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kim, Andresen, and Brillhart, III, and further in view of U.S. Patent No. 2,758,952 to Toulmin, Jr. (hereafter “Toulmin, Jr.”). This rejection is respectfully traversed. Toulmin, Jr. fails to remedy the deficiencies of Kim, Andresen, and Brillhart, III discussed above in regard to independent claim 1, from which claim 8 depends. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 9 and 10

Claims 9 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kim in view of U.S. Patent No. 5,804,757 to Wynne (hereafter “Wynne”). This rejection is respectfully traversed. Wynne fails to remedy the deficiencies of Kim discussed above in regard to independent claim 1, from which claims 9 and 10 depend. Reconsideration and withdrawal of this rejection is respectfully requested.

Claim 11

Claim 11 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kim in view of U.S. Patent No. 6,807,891 to Fisher (hereafter “Fisher”). This rejection is respectfully traversed. Fisher fails to remedy the deficiencies of Kim discussed above in regard to

independent claim 1, from which claim 11 depends. Reconsideration and withdrawal of this rejection is respectfully requested.

**New Claim**

New claim 18 has been added.

Claim 18 recites a stab-resistant insert for protective textile, said insert comprising: a stab-resistant element; and one or more textile layer, wherein the textile layer comprises a non-woven material; wherein the one or more textile layer in contact with and being connected to said metal layer by an adhesive; wherein the stab-resistant element consist of one or more metal layers of a woven fabric with metal cords or metal wires.

Applicant notes that it is permissible to use the language “consisting of” within the body of a claim rather than immediately following the preamble of the claim to limit the element set forth in that clause. See MPEP 2111.03. Applicant submits that claim 18 recites, among other things, a stab resistant element that is limited to one or metal layers of a woven fabric with metal cords or metal wires.

Applicant respectfully submits that claim 18 is allowable over the references relied upon by the Office. For example, Kim does not disclose or suggest a stab-resistant insert including a stab-resistant element consisting of one or more metal layers of a woven fabric with metal cords or metal wires, as recited in claim 18, because Kim discloses a fabric that includes plates that provide penetration resistance, as taught by Kim. The plates of Kim are not a metal layer of woven fabric with metal cords or metal wires, as recited in claim 18.

Furthermore, as discussed above, it would not have been obvious to one of ordinary skill to modify the fabric of Kim to remove the plates so that only a knit or woven material is provided because Kim teaches against such a modification. For example, Kim teaches that knit or woven constructions provide minimal protection against blade cutting, such as by knives, provide even less protection against abrasive or serrated instruments, and virtually no protection against puncture or piercing. See Kim at col. 1, line 66, to col. 2, line 5.

**Conclusion**

Applicant submits that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.


The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

AUG 19 2009

Date \_\_\_\_\_

By  \_\_\_\_\_

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